

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Equipav S.A. Pavimentação, Engenharia e Comercio Ltda.)	
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)	
Petitioner,)	Case No. 22-cv- <u>4594</u>
)	
)	
-against-)	
)	
Silmar Roberto Bertin)	
)	
)	
)	
Respondent.)	
)	

DECLARATION OF FABRIZIO DOS SANTOS GARBIN

I, Fabrizio Dos Santos Garbin, do hereby declare:

1. I am an attorney in the law firm of Ferro, Castro, Neves, Daltro & Gomide in São Paulo, Brazil. I am qualified to practice law in Brazil. I serve as counsel to Equipav S.A. Pavimentação, Engenharia e Comercio Ltda. ("Equipav") in Brazil. As such, I have familiarity with its corporate structure and history, as well as the arbitration between Empate Engenharia e Comércio Ltda. ("Empate") and Silmar Bertin, the Respondent, and issues relating to Equipav's efforts to identify assets to satisfy its Award.
2. Attached hereto as Exhibit 1 is a true and correct copy of a certified English translation of an Amendment to the Articles of Association for Empate, dated December 30, 2021, accompanied by the Portuguese-language original.



3. Attached hereto as Exhibit 2 is a true and correct copy of a certified English translation of Minutes of the Special Shareholders' Meeting Held on December 30, 2021, dated December 30, 2021, accompanied by the Portuguese-language original.
4. Silmar Roberto Bertin is a citizen of Brazil, a business mogul, and is among the richest individuals in Brazil. He is the beneficial owner of Heber Participações SA, which is part of a conglomerate formerly known as "Grupo Bertin." Now known as "Grupo Heber," these nine entities filed a request for judicial recovery in Brazil in 2017, which is the Brazilian equivalent of seeking bankruptcy protection, seeking to restructure 7.86 billion reais in debt. Thus, Heber Participações SA has claimed an inability to pay its debts.
5. Neither Petitioner nor Empate has chosen to file a creditor claim seeking recovery from Heber Participações in the bankruptcy proceedings.
6. According to Brazilian Law, a company that incorporates another by merger assumes the merging company's rights and obligations. Therefore, even though Empate no longer exists, Equipav is now the award creditor and may enforce the June 3, 2019 arbitral Award issued against Silmar Bertin as though it is the original claimant.
7. Attached hereto as Exhibit 3 is a true and correct copy of a certified English translation of the Agreement for Restructuring, Division of CIBE Assets and Other Covenants, dated June 15, 2010, accompanied by the Portuguese-language original.
8. Attached hereto as Exhibit 4 is a true and correct copy of a certified English translation of the Final Arbitration Decision, dated June 3, 2019 by the Center for Arbitration and Mediation of the Chamber of Commerce Brazil-Canada, accompanied by the Portuguese-language original.
9. Brazilian law does not require that the award sets out a liquidated amount, as long as this amount can be calculated using simple math. Also, the award expressly reckons "the stage of liquidation

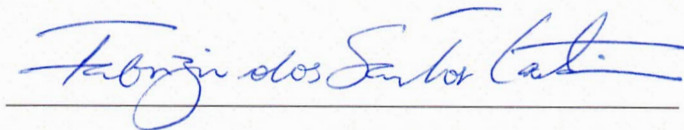
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of the award not being applicable, since all criteria and numbers to calculate the fine and respective limits are identified in paragraphs 195 to 197 of this Final Award”.

10. Attached hereto as Exhibit 5 is a spreadsheet reflecting the calculation of the amount owed under the Award. This calculation was made at my direction and under my supervision, and accurately reflects the due amount from Bertin in conformance with the criteria set forth in the Award.
11. Attached hereto as Exhibit 6 is a true and correct copy of the conversion of the Award amount from Brazilian reais to US dollars using the official Banco Central do Brasil rate published on its website on June 1, 2022.
12. Attached hereto as Exhibit 7 is a true and correct copy of a Form 8-K filed by Chase Manhattan Corporation on September 18, 2000, with the US Securities & Exchange Commission, downloaded from <https://www.sec.gov/Archives/edgar/data/19617/000095012300008649/y40434e8-k.txt>.
13. Attached hereto as Exhibit 8 is a true and correct copy of a Form 8-K filed by JPMorgan Chase & Co. on May 20, 2022, with the US Securities & Exchange Commission, downloaded from <https://jpmorganchaseco.gcs-web.com/node/456491/html>.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed in São Paulo, Brasil, this 2nd day of June 2022.



Fabrizio Dos Santos Garbin